

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF OHIO
WESTERN DIVISION AT DAYTON**

JESSICA LYNN GRIECO,

Petitioner,

: Case No. 3:21-cv-193

- vs -

District Judge Thomas M. Rose
Magistrate Judge Michael R. Merz

TERI BALDAUF, Warden,
Ohio Reformatory for Women,

:

Respondent.

**DECISION AND ORDER DENYING MOTION FOR EVIDENTIARY
HEARING**

This habeas corpus case is before the Court on the Petitioner's Motion for an Evidentiary Hearing (ECF No. 14).

Petitioner cites the correct standard for an evidentiary hearing in an action under 28 U.S.C. § 2255 where a federal prisoner brings a collateral attack against her or his federal sentence. *Id.* at PageID 190. However, this is an action under 28 U.S.C. § 2254 wherein Petitioner seeks relief from her sentence by a state court. She relies on authority for such hearings from before adoption of the Antiterrorism and Effective Death Penalty Act of 1996 (Pub. L. No 104-132, 110 Stat. 1214)(the "AEDPA"), to wit, *Townsend v. Sain*, 372 U.S. 293, 313 (1963). However, the Supreme Court of the United States has interpreted the AEDPA to prohibit evidentiary hearings in § 2254 cases until and unless the petitioner has established under 28 U.S.C. § 2254(d)(2) that the state court's decision is based on an unreasonable determination of the facts in light of evidence

presented to those state courts. *Cullen v. Pinholster*, 563 U.S. 170 (2011).

Accordingly, Petitioner's Motion for Evidentiary hearing is DENIED without prejudice to its renewal if the requirements of *Pinholster* are met.

August 5, 2021.

s/ *Michael R. Merz*
United States Magistrate Judge